

ORIGINAL
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Initiation of show cause proceedings against World Access Communications Corp. for violation of Rule 25-24.4701, F.A.C., Provisions of Regulated Communications Service to Uncertified Resellers Prohibited.

DOCKET NO. 960216-TI
ORDER NO. PSC-96-0646-POF-TI
ISSUED: May 10, 1996

WORLD ACCESS' RESPONSE TO ORDER TO SHOW CAUSE

World Access Communications Corporation ("World Access"), by and through its undersigned counsel, hereby files its responses to the Public Service Commission's ("Commission") Order to Show Cause dated May 10, 1996, as follows:

I. RESPONSE TO SECTION II OF THE ORDER TO SHOW CAUSE:

1. World Access should not be fined by the Commission for any alleged violation(s) of Rule 25-24.4701, Florida Administrative Code, prohibiting a certificated inter-exchange company such as World Access, from providing telecommunications service on an intrastate basis in Florida, to an uncertificated inter-exchange company for the purpose of reselling or rebilling intrastate inter-exchange telecommunications services to the general public. For purposes of fully responding to the Order to Show Cause and to further illustrate the underlying dispute between Telecuba and World Access, please find attached hereto as Exhibit "A", World Access' Verified Complaint for Damages and Equitable Relief, which was filed against Telecuba and its President and sole shareholder, Louis G. Coello ("Coello"), among others, styled *World Access Communications Corp. v. Telecuba, Inc.*, Circuit Court Case No: 96-00828 CA (23). Inasmuch

as Telecuba was only marketing and selling pre-paid debit cards to the general public through various vendors in the state of Florida, World Access as a certificated inter-exchange company did not believe or "expect" that Telecuba was reselling or rebilling its services for which Telecuba was required to possess a Certificate of Public Convenience and Necessity, in violation of the Rule 25-24.4701(1), F.A.C., for which the Commission should impose a fine or have its own Certificate of Public Service Commission canceled.

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2. As noted by the Commissioners in the Order to Show Cause, one of the services provided by World Access is the reselling of long distance telecommunication services to other companies that would otherwise be unable to obtain discounts from major providers such as AT&T. This is accomplished by purchasing long distance service at wholesale per minute rates and then reselling the minutes to other companies such as Telecuba. Prior to World Access having any involvement with Telecuba, a company which has some common ownership interests and a business relationship with World Access known as Telecommunications Services, Inc., ("TSI"), obtained exclusive use of several 1-800 numbers from AT&T, in or about January, 1995.

3. As set forth in the Verified Complaint, World Access and TSI entered into a long-distance telecommunications agreement with Telecuba and Cellular Access, in which World Access was to become a 50% shareholder of Telecuba and another related company by the name of Cellular Access Communications, Inc. ("Cellular Access"). *Inter alia*, a telecommunications service agreement was to be established whereby World Access and TSI would provide Telecuba and Cellular Access with, among other things: (1) access and use of World Access' long-distance telecommunications services, for the sale, marketing and distribution of Telecuba's and Cellular Access' pre-paid debit calling cards for sale to the general public and (2) access and use of several 1-(800) numbers, which accounts had been established in the names of World Access and TSI. At all times material hereto, Telecuba, by and through its sole share and office holder, Coello, represented to World Access that Telecuba was in compliance with all applicable federal and state regulations and specifically, Rule 25-24.4701, Florida Administrative Code. Further and significantly, World Access believed this to be a partnership relationship; not a mere "distant" re-seller.

4. Accordingly, in anticipation of a successful business partnership between the various companies, World Access, by and through TSI, dedicated several of its 1- (800) numbers for use by Telecuba's and Cellular Access' pre-paid debit card customers. World Access also provided Telecuba and Cellular Access with the use of its network "switch" system whereby a

customer could access a United States phone line from anywhere in the world in order to place international calls. (See paragraphs 10 through 16 of the Verified Complaint). Notwithstanding the fact that Telecuba and Cellular Access indirectly utilized World Access' telecommunications network system through the advent of the debit calling cards, these companies were not offering their services as a telecommunications "carrier" or "provider" as defined by the Florida Administrative Code to their respective end user debit calling card customers. Telecuba and Cellular Access merely vendors to the general public on what was believed to be a joint venture type of relationship.

5. Therefore, Telecuba and Cellular Access were not engaging in the reselling or rebilling of intrastate inter-exchange telecommunication services in the state of Florida for which World Access was governed, in this instance, under Rule 25-24.4701, F.A.C., since all incoming and/or outgoing pre-paid debit card customer calls ran through World Access' own telecommunications networking system and exclusive 1-(800). Additionally, Telecuba and Cellular Access were to be directly billed for the time that their respective customers used World Access' telecommunications network system via the pre-paid debit calling card. Both Telecuba and Cellular Access were to be directly billed for their respective customers' network time and at all times material, Telecuba and Cellular Access were to be responsible for properly maintaining their service accounts with World Access. Moreover, based on representations made by Coello on behalf of Telecuba and Cellular Access, World Access provided these companies with two free months of network time (approximately \$150,000.00), which credit was to be used as a reinvestment tool to help the companies grow.

6. Accordingly, World Access took the steps necessary to protect its interests by attempting to mitigate any further damages it has encountered as a result of Telecuba and/or Cellular Access' fraudulent conduct as alleged in the Verified Complaint. More importantly, World Access provided Telecuba and Cellular Access with reasonable notice and opportunity to bring their accounts current in order to avoid termination of their services. Despite World

Access' repeated demands for payment and after advising Telecuba and Cellular Access that World Access was left with no choice but to terminate their services, Telecuba and Cellular Access continued to market and sell pre-paid calling cards to the public, when in fact, these companies knew that TSI's 1-(800) numbers were no longer going to be available for their use, unless the outstanding bills were brought current. To date, Telecuba and Cellular Access' bills which are due and owing World Access remain unpaid. Further, upon information and belief, Telecuba and Cellular Access continue to sell and market their pre-paid calling cards to the general public with the knowledge that World Access has discontinued their telecommunications services.

7. For the foregoing reasons, World Access respectfully submits to the Commission that no violations of Rule 25-24.4701, Florida Administrative Code, occurred warranting the imposition of a fine or revocation of its certificate. World Access will continue to retain all records which may be relevant to the Complaint until a final disposition of this case is rendered by the Commission.

II. RESPONSE TO SECTION III OF THE ORDER TO SHOW CAUSE:

8. World Access shall provide Telecuba with all records necessary for Telecuba to refund money to customers who have purchased debit cards as ordered by the Commission. Indeed, at the formal hearing formerly held on this matter, World Access has agreed to fully cooperate with Telecuba in its efforts to reimburse customers for the remaining balance of unused long distance time on the debit calling cards.

9. Finally, World Access would have the Commission note, however, that despite the fact that Telecuba has indicated its willingness to rebate debit cardholders for the remaining balance on their calling cards, it believes that Telecuba has created a "red herring" issue and is using this remedial "ploy" to conduct informal discovery of World Access' books and records for use in the above referenced law suit pending in Dade County Circuit Court. See Exhibit "A" attached hereto.

10. Since the actual debit cards sold and distributed by Telecuba are purchased by a customer at local stores and vendors throughout the state, there is no information contained on the cards which can identify any one particular customer. In other words, who ever is holding or is in possession of the card is the customer for that particular long distance call. The calling card itself merely provides the enduser with the necessary information to place the call and utilize World Access' network system. Therefore, the invoices which World Access maintains for its records will not, in fact, identify a customer by name and address, which information could then be used by Telecuba to contact the customer to distribute a refund. In effect, any repayment plan implemented by Telecuba must necessarily involve giving constructive notice to a holder of a debit card, without distinguishing which customer actually made the purchase of the card. World Access' records and billing information will simply not assist Telecuba in this regard, however, World Access will comply with the decision of the Commission set forth in the Order to Show Cause, as indeed it agreed to do even prior to this Commissions' Order.

PETITION FOR FORMAL PROCEEDINGS

World Access respectfully requests that this matter be decided by the Commission through formal proceedings and further requests a hearing as provided by the Fla. Admin. Code R. 25-22.037(1).

Respectfully submitted this 30th day of May, 1996.

SCHANTZ, SCHATZMAN & AARONSON, P.A.
Attorneys for WORLD ACCESS COMMUNICATIONS CORP.
Suite 1050, First Union Financial Center
200 South Biscayne Boulevard
Miami, FL 33131-2394
(305) 371-3100

By: _____

Alan P. Dagen
ALAN P. DAGEN, ESQ.
Florida Bar No.: 456535

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was served via Federal Express this 30th day of May, 1996, upon: **Blanca S. Bayo**, Director, Division of Records and Reporting, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0850; and via U.S. Mail upon: **Terri B. Natoli** and **Mitchell F. Brecher**, Counsel for Telecuba, Inc., Fleischman and Walsh, L.L.P., 1400 Sixteenth Street, N.W. Washington, D.C. 20036.

By: Alan Dagen
ALAN P. DAGEN, ESQ.

G:\ESQUENA\TELECUBA\PSC.RES

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT,
IN AND FOR DADE COUNTY, FLORIDA

CASE NO.: _____ 96-00828 (23)

WORLD ACCESS COMMUNICATIONS
CORPORATION, a Florida corporation,

Plaintiff,

vs.

TELECUBA, INC., a Florida corporation,
CELLULAR ACCESS
COMMUNICATIONS, INC., a Florida
corporation, LUIS G. COELLO,
individually and ANGEL PROL,
individually,

Defendants.

FILED
CLERK OF DISTRICT COURT DADE CO.
JAN 12 1996

VERIFIED COMPLAINT

Plaintiff, WORLD ACCESS COMMUNICATIONS CORPORATION ("WORLD ACCESS") hereby sues Defendants, TELECUBA, INC., ("TELECUBA"), CELLULAR ACCESS COMMUNICATIONS, INC. ("CELLULAR ACCESS"), LUIS G. COELLO ("COELLO") and ANGEL PROL ("PROL"), and alleges as follows:

JURISDICTION AND VENUE

1. This is an action for damages in excess of Fifteen Thousand Dollars (\$15,000.00), exclusive of interest and costs within the jurisdictional amount of this Court. This is also an action for equitable relief as is further alleged herein.
2. Venue is proper in this Court pursuant to § 47.011, Florida Statutes, as the Defendants either reside in, and/or the cause of action relating to Defendants have accrued in Dade County, Florida.

- Page 1 -

EXHIBIT A

PARTIES

3. Plaintiff, WORLD ACCESS, is a Florida corporation licensed to do business in the State of Florida and which, at all material times, had its principal place of business in Dade County, Florida.

4. Defendant, TELECUBA, is a Florida corporation licensed to do business in the State of Florida and which, at all material times, had its principal place of business in Dade County, Florida.

5. Defendant, LUIS G. COELLO ("COELLO"), is a resident of Dade County, Florida and is otherwise *sui juris*. At all times material herein, COELLO was the President of TELECUBA.

6. Defendant, ANGEL PROL ("PROL"), is a resident of Panama who was brought to this country under a special visa for purposes of being employed at WORLD ACCESS.

FACTUAL ALLEGATIONS

7. In or about 1989, Telecommunications Services, Inc. ("TSI") was incorporated in the State of Florida. Joel Esquenazi ("Esquenazi") is a principal of TSI.

8. In or about 1991, WORLD ACCESS was incorporated in the State of Florida. Both TSI and WORLD ACCESS are telecommunications companies. *Inter alia*, WORLD ACCESS provides various services in the telecommunications industry. One area of its business, along with TSI, is the marketing of prepaid calling cards. As TSI's customers are from all over the world, the customer would buy TSI's calling cards from various retail vendors, mostly in South Florida. Once the customer has dialed a toll free (1-800) access number, the cards worked like other telephone credit or calling cards.

9. One of the services WORLD ACCESS provides is that of a service bureau for various debit card companies such as the Defendants. In this instance, another company would issue and market a debit card. These cards are sold to the public which prepaays for the long distance services the buyer uses when utilizing the card's access number. The debit card company would use WORLD

CASE NO.: _____

ACCESS to provide access to the network to place the calls, bill for the calls, and other needed services.

10. Another service that WORLD ACCESS provides is call back service. Under this service, the customer can access the WORLD ACCESS network by calling a number issued to the customer. Each customer has a unique number. The customer calls the number, it rings and then hangs up. The system network would then "call back" that user and after giving the proper access code WORLD ACCESS would provide the user with a United States dial tone. In this way, a consumer can access a United States phone line from anywhere in the world.

11. Another service that WORLD ACCESS provides is as a reseller or secondary vendor of long distance telecommunications services to either other communications companies (including other resellers or vendors) and the general public. For example, WORLD ACCESS buys long distance service at wholesale per minute rates and resells it to smaller companies that would not otherwise be able to obtain the largest discounts from major providers such as AT&T.

12. In or about April 1995, COELLO approached WORLD ACCESS with a business proposal after being introduced to WORLD ACCESS by an AT&T representative. COELLO was interested in establishing and operating a debit card business as described above.

13. WORLD ACCESS decided to explore the business further and after reviewing same, the parties made several agreements between them as set forth below.

14. WORLD ACCESS would provide its networking system to process the debit card calls for the Defendants. The debit card would have an 800 number on it. After paying for a card, the end user (the public) would dial the number. That call would be directed into WORLD ACCESS' computer network system.

15. Subsequently, the same network would process the outgoing call (i.e., the phone number the card user was calling).

16. Additionally, the computer would tabulate the length of the call, its cost, etc., for purposes of billing the call to the particular end user or customer of the Defendants.

17. The parties further agreed to the following: upon WORLD ACCESS' suggestions, COELLO was to organize and incorporate two (2) new companies: TELECUBA and CELLULAR ACCESS; TELECUBA was the company marketing the debit cards. CELLULAR ACCESS was to market the call-back and debit card services for cellular users. In addition, WORLD ACCESS was supposed to obtain fifty percent (50%) stock ownership of TELECUBA and CELLULAR ACCESS. After incorporating the companies, COELLO delivered TELECUBA's corporate books to WORLD ACCESS' offices.

18. In addition to providing the network, WORLD ACCESS agreed that TELECUBA could utilize the first \$150,000.00 of network time to be re-invested in TELECUBA and CELLULAR ACCESS in order to allow those companies to grow.

19. Accordingly, COELLO was supposed to do the marketing, sale and distribution of the debit card for TELECUBA and CELLULAR ACCESS.

20. In or about January 1995, WORLD ACCESS asked AT&T to set aside several 1-800 numbers for its exclusive use. Although some of these numbers were dedicated to TSI, the numbers were ostensibly dedicated for use in connection with WORLD ACCESS' agreements entered into with the Defendants.

21. Once the program was established for TELECUBA, Esquenazi assigned one of the above 1-800 numbers to this project. The account holder of the 1-800 number was TSI/TELECUBA.

22. In or about the summer of 1995, TELECUBA marketed pre-paid debit cards to the general public. When the user utilized the card to place long distance telephone service (through WORLD ACCESS' network), WORLD ACCESS would calculate the minutes in its computer system and was supposed to bill TELECUBA accordingly.

23. WORLD ACCESS, however, waived the first \$150,000.00 of network billing time in reliance on COELLO's agreement and representations to use that money, otherwise due and owing to WORLD ACCESS, to invest in TELECUBA and CELLULAR ACCESS to help the new business' grow. At all times material, the Defendants continued to represent to WORLD ACCESS that this

CASE NO.: _____

waiver of network time was, in fact, being invested in such manner with the intent of inducing WORLD ACCESS into providing the waiver.

24. Despite the fact that COELLO's investment in TELECUBA was substantially less than that of WORLD ACCESS, Esquenazi trusted and relied on COELLO representations that his promises would be kept.

25. Accordingly, WORLD ACCESS prepared a letter of intent to document the agreements among the parties. After presenting the letter of intent to COELLO, COELLO began going to the office (which TELECUBA, CELLULAR ACCESS and WORLD ACCESS all shared) less frequently. Then, he asked for various changes to the agreement; at other times, he would say the agreement was fine and that he would get back to WORLD ACCESS on executing an agreement. A true and correct copy of the letter of intent is attached hereto as Exhibit "A".

26. Meanwhile, WORLD ACCESS had loaned money to COELLO, individually and loaned money to CELLULAR ACCESS. These loans were over and above the capital contributions made to TELECUBA.

27. *Inter alia*, in order to assist in the programming and system analysis of the networking for this and other WORLD ACCESS business, WORLD ACCESS sought to hire a programmer/systems analyst.

28. In connection therewith, WORLD ACCESS petitioned the Immigration and Naturalization Service for purposes of offering a temporary position to PROL as a programmer/systems analyst. PROL, among other duties, was to help plan, develop and document computer programs which would be used in the network and billing process for Defendants' business.

29. WORLD ACCESS successfully obtained a Visa for PROL for the sole purpose of PROL working for WORLD ACCESS and PROL began employment at WORLD ACCESS. At all times material, COELLO knew that PROL was residing and working in this country on a restricted Visa obtained through the effort and expense of the Plaintiff.

CASE NO.: _____

30. Towards the end of the summer of 1995, WORLD ACCESS began feeling uncomfortable with COELLO's continued delay in executing the written agreements confirming their business arrangements and additionally that the Defendants were not paying WORLD ACCESS for the services provided following the expiration of the initial two months of free service that was to be reinvested in the Defendant corporations.

31. In an effort to rectify the situation, Esquenazi began asking PROL to prepare invoicing and computer runs on TELECUBA and CELLULAR ACCESS's debt to WORLD ACCESS.

32. PROL would continually indicate and represent to Esquenazi that the computer programs had various number of problems which precluded quick and accurate billing information. Based on these representations PROL succeeded in delaying the invoicing by WORLD ACCESS (billing) to Defendants for a few months.

33. Unbeknownst to WORLD ACCESS, this was all part of a master plan devised by the Defendants to defraud the Plaintiff.

34. During the course of PROL's employment with WORLD ACCESS, he and COELLO conspired to steal WORLD ACCESS' assets, corporate opportunities, customers lists, pricing lists and other trade secrets. *Inter alia*, the following occurred:

(a) COELLO, utilizing PROL's assistance as WORLD ACCESS' computer programmer, failed to submit detailed and accurate billing invoices to TELECUBA such that it appeared on WORLD ACCESS' books and records that TELECUBA owed less money than it rightfully did to WORLD ACCESS;

(b) COELLO collected money for the debit cards sold but never accounted for the sale of these cards to WORLD ACCESS;

(c) at COELLO's request, PROL prepared specification sheets in the WORLD ACCESS' computer networking system relative to a turnover of the system to TELECUBA's benefit;

(d) utilizing funds which rightfully belonged to WORLD ACCESS, COELLO purchased its own equipment to begin his own network, all of which knowledge was obtained as a

CASE NO.: _____

result of stealing trade secrets and other confidential information of WORLD ACCESS, which was developed by WORLD ACCESS at great expense, time and effort;

(e) such trade secrets and other confidential information was not readily available to competitors in the industry or the public; and

(f) PROL and COELLO were subject to non-disclosure agreements relative to the above trade secrets which agreements have been breached.

35. Further, upon information and belief, TELECUBA operates within the industry without a license.

36. When WORLD ACCESS discovered this fraudulent scheme, WORLD ACCESS demanded a full accounting and payment from the Defendants. In addition, for the first time, Esquerazi looked at TELECUBA's corporate books and discovered that the stock was never issued to WORLD ACCESS.

37. COELLO refused to issue the stock for TELECUBA. COELLO had issued ten percent (10%) of the stock in CELLULAR ACCESS to WORLD ACCESS, but never issued the remaining forty percent (40%).

38. COELLO began operating TELECUBA and CELLULAR ACCESS utilizing inventory, pricing lists, customer lists and other confidential information and trade secrets acquired from WORLD ACCESS.

39. Upon this discovery, WORLD ACCESS shut down the TELECUBA network and advised COELLO of the shut down. That means that when the debit card buyer calls the dedicated 1-800 number, it will not access the network and a call will not be placed. In response, COELLO replied that he did not care.

40. Amazingly, TELECUBA continued to sell debit cards to the public even after it knew the 1-800 number printed on the card was useless.

CASE NO.: _____

41. TELECUBA defrauded the public by selling debit cards it knew had no value. TELECUBA defrauded WORLD ACCESS by not turning over the proceeds of the debit cards to WORLD ACCESS in order to keep the network up and running.

42. In addition, by virtue of his knowledge of the computer system, PROL had taken over the TELECUBA customer lists, pricing lists and other confidential information of WORLD ACCESS, which lists and information was cultivated and developed at great expense, time and effort by WORLD ACCESS.

43. To date, PROL continues to make calls to his home in Panama by using credit card phone numbers which belong to WORLD ACCESS' customers.

44. After the above frauds were discovered and COELLO left to run his operations now in place, COELLO contacted AT&T for the purpose of having AT&T release and/or transfer the dedicated 1-800 number to TELECUBA.

45. In the course of that conversation, COELLO accused WORLD ACCESS of defrauding TELECUBA.

46. COELLO further requested that the billing for the 1-800 number remain with TSI. When AT&T realized that TELECUBA wanted "ownership" of the 1-800 number while taking no responsibility for paying its bills, AT&T contacted TSI and WORLD ACCESS. AT&T agreed that the 1-800 number had been assigned to TSI and WORLD ACCESS and would remain that way.

47. Despite demand, TELECUBA and CELLULAR ACCESS refuse to pay its bills to WORLD ACCESS.

48. Despite demand, COELLO refuse to turnover fifty percent (50%) of the STOCK of TELECUBA and CELLULAR ACCESS to WORLD ACCESS.

49. All conditions precedent to this suit have occurred, been performed or excused.

CASE NO.: _____

COUNT I.

[Constructive Trust]

50. WORLD ACCESS hereby realleges and incorporates paragraphs 1 through 48 as if fully set forth herein.

51. COELLO entered into a contract with WORLD ACCESS to issue fifty percent (50%) of TELECUBA's and CELLULAR ACCESS' shares in the name of WORLD ACCESS. Despite demand, COELLO refuses to turn over the corporate stock.

52. COELLO is operating TELECUBA and CELLULAR ACCESS in the telecommunication industry without a proper license. In addition thereto, COELLO has perpetrated a fraud upon the public and the telecommunication industry.

53. COELLO opened up the competing business to WORLD ACCESS utilizing trade secrets stolen from WORLD ACCESS and utilizing funds which were to be remitted to WORLD ACCESS as the provider of the services. COELLO utilized this fraudulent scheme by enlisting PROL as their computer programmer and causing WORLD ACCESS by purposely not invoicing TELECUBA for the minutes that were being provided through the WORLD ACCESS' system in by not providing a timely and full accounting. In this way, COELLO and TELECUBA were able to divert funds that were committed for purposes of paying WORLD ACCESS as the provider of the services and instead opened a competing business. The funds that TELECUBA received from its end users from the sale of debit cards represents the *res* which is the subject of the constructive trust claim. These funds were collected by TELECUBA in trust for WORLD ACCESS. As such, TELECUBA acts as constructive trustees and fiduciaries to properly account for these funds and to remit these funds to WORLD ACCESS. WORLD ACCESS will be irreparably harmed in the event that Defendants are not restrained and enjoined from transferring, conveying and releasing any further proceeds collected from the debit cards in the past or in the future, in that such proceeds constitute the *res* which is the subject of this claim and would likely be dissipated prior to any final adjudication of the dispute.

CASE NO.: _____

54. WORLD ACCESS has no adequate remedy at law which will render full and complete relief.

55. Defendants' actions were committed intentionally, willfully and for such purpose and in a manner as to harm WORLD ACCESS and to violate and abuse the confidence and trust WORLD ACCESS placed in the Defendants.

56. The Defendants' conduct was wanton, purposefully and malicious and design to harm WORLD ACCESS.

WHEREFORE, WORLD ACCESS requests that this Court (a) establish a constructive trust in its favor in an amount equal to the proceeds obtained from past and future accounts from the sale of debit cards which were destined to use at WORLD ACCESS' network for the purpose of paying all access the amount owed to it in the agreement set forth above; and (b) declare that the Defendants' constructive trustees of all such funds and such funds decimated before the date of effect or judicial intervention of this dispute be returned to WORLD ACCESS; and (c) enter an injunction enjoining the Defendants from dissipated further any proceeds collected in any form currently had; and (d) award damages against the Defendants for such funds had been decimated by Defendants, including an award of punitive damages, interest and court costs; and (e) award WORLD ACCESS such further relief as this Court deems appropriate.

COUNT II.

[Breach of Duty of Loyalty]

57. WORLD ACCESS hereby realleges and incorporates paragraphs 1 through 48 as if fully set forth herein.

58. The parties entered into an agreement whereby COELLO was to transfer fifty percent (50%) of the stock of TELECUBA and CELLULAR ACCESS to WORLD ACCESS. Despite demand, COELLO refuses to comply with that contractual undertaking.

CASE NO.: _____

59. By virtue of the fifty percent (50%) ownership in the stock, COELLO owed a duty of loyalty towards WORLD ACCESS.

60. Defendants have wrongfully stripped WORLD ACCESS of some of its assets, stolen its trade secrets and converted corporate funds in order to use such funds and assets to further its own business ventures in competition with WORLD ACCESS as opposed to conduction its operations in partnership with WORLD ACCESS. The transfer of assets is not reasonably calculated to be in the best interest of WORLD ACCESS. Further, COELLO derives an improper personal benefit from these transfers.

61. Defendants' actions have used business opportunities of WORLD ACCESS.

62. Accordingly, all of the corporate assets of TELECUBA constitute a *res* which forms a constructive trust in favor of WORLD ACCESS.

63. Defendants have breached their fiduciaries duties to WORLD ACCESS by failing to account for corporate assets and applying them to debts legitimately incurred.

64. WORLD ACCESS would be irreparably harm if Defendants are not restrained and enjoined from transferring, conveying or releasing any of the subject assets.

65. WORLD ACCESS would have no adequate remedy at law which would render full and complete relief.

66. The Defendants' actions were committed intentionally, willfully and for such purpose and in a manner as to harm WORLD ACCESS and to violate and abuse the confidence and trust WORLD ACCESS placed in the Defendants.

67. The individuals Defendants' conduct was wanton, purposefully and malicious and design to harm WORLD ACCESS.

WHEREFORE, WORLD ACCESS requests that this Court (a) establish a constructive trust in its favor in an amount equal to the proceeds obtained from past and future accounts from the sale of debit cards which were destined to use at WORLD ACCESS' network for the purpose of paying all access the amount owed to it in the agreement set forth above; and (b) declare that the Defendants'

CASE NO.: _____

constructive trustees of all such funds and such funds decimated before the date of effect or judicial intervention of this dispute be returned to WORLD ACCESS; and (c) enter an injunction enjoining the Defendants from dissipated further any proceeds collected in any form currently had; and (d) award damages against the Defendants for such funds had been decimated by Defendants, including an award of punitive damages, interest and court costs; and (e) award WORLD ACCESS such further relief as this Court deems appropriate.

COUNT III.

[Fraud]

68. WORLD ACCESS hereby realleges and incorporates paragraphs 1 through 48 as if fully set forth herein.

69. COELLO represented to WORLD ACCESS he would convey fifty percent (50%) of the shares of stock in TELECUBA and CELLULAR ACCESS to WORLD ACCESS. These representations were made as a charade to hide COELLO's true goal which was to steal trade secrets and valuable information in to how the business was run so that he could set TELECUBA as a competing business not as a 50/50 partnership with WORLD ACCESS.

70. COELLO enlisted PROL as his assistant and conspirator in committing this fraud. Unbeknownst to WORLD ACCESS and in reliance on the representations made by COELLO, WORLD ACCESS provided confidential information to COELLO, allowed COELLO to operate TELECUBA out of WORLD ACCESS' offices, obtained a special work permit for PROL, and assist TELECUBA in the debit card business.

71. At the time COELLO made those representations, he intended and knew that WORLD ACCESS would rely and act upon those representations.

72. At the time COELLO made those representations, he had no personal intent to honor them.

CASE NO.: _____

73. WORLD ACCESS relied on the representations, acted upon them to its detriment and was consequently damaged.

74. As a proximate result of Defendants' wrongful conduct, WORLD ACCESS has been damaged.

75. Defendants were intentional, reckless, wanton and committed with complete disregard for WORLD ACCESS' rights.

WHEREFORE, WORLD ACCESS demands judgment in its favor and against Defendants, jointly and severally for compensatory damages, punitive damages and an amount to be determined at trial, together with interest, costs, and such other relief as the Court deems proper.

COUNT IV.

[Appointment of Receiver]

76. WORLD ACCESS hereby realleges and incorporates paragraphs 1 through 48 as if fully set forth herein.

77. WORLD ACCESS has a right to Defendants' property, by virtue of the promises to convey fifty percent (50%) stock ownership and WORLD ACCESS performing its end of the undertaking to earn such shares. Specifically, it provided the network accessing and free invoicing for two months period.

78. Due to the actions of the Defendants, and the threat to the value and maintenance of the corporate assets, fifty percent (50%) of which belongs equitably to WORLD ACCESS, a Receiver is necessary to preserve the assets.

79. The corporate stock pledged but undelivered only has value if the company is operated properly and further dissipation of assets do not occur.

80. There is eminent danger if immediate possession is not taken by the Court that further selling or wasting of assets will occur.

CASE NO.: _____

81. It is critical that a Receiver be appointed to oversee the operations and assets of TELECUBA and CELLULAR ACCESS.

WHEREFORE, WORLD ACCESS requests that this Court appoints a Receiver pursuant to Rule 1.620 of the Florida Rules of Civil Procedure.

COUNT V.

[Claim for Injunctive Relief and Damages
Pursuant to Florida Statutes § 688, etc.]

82. WORLD ACCESS hereby realleges and incorporates paragraphs 1 through 48 as if fully set forth herein.

83. Defendants has misappropriated WORLD ACCESS as confidential and trade secret information, including, but not limited to, its pricing lists, its customer's list and other valuable and confidential information located in its computer database. Further, Defendants have caused to remove such information from the offices of WORLD ACCESS and are utilizing such information in the operations of TELECUBA. All of this is contrary to the Florida Trade Secrets Act, Chapter 688, Florida Statutes.

84. Defendants have used and disclosed and will continue to use and disclose such trade secrets and proprietary and confidential information unless enjoined by the Court. Defendants are doing business by utilizing this confidential and proprietary information for its own advantage and without accounting to WORLD ACCESS for the use of this information.

85. The above acts are causing and will continue to cause WORLD ACCESS substantial, immediate and irreparable harm for which WORLD ACCESS has no adequate remedy at law, and said violations are continuing and will continue until enjoined and monetary damages are difficult to approximate.

86. Defendants have willfully and maliciously misappropriated these trade secrets and lists causing WORLD ACCESS customer problems, unpaid invoices from the Defendants, unpayable

CASE NO.: _____

invoices from other customers and unjustly enriching Defendants while causing actual damages to WORLD ACCESS in an amount to be determined.

WHEREFORE, WORLD ACCESS requests that this Court enter a temporary injunction to be made permanent against Defendants (a) restraining and enjoining Defendants' use and/or disclosure of WORLD ACCESS customer's lists, pricing lists and/or any other proprietary confidential information or documents obtained from or developed by WORLD ACCESS; (b) mandatorily directing the returns of all such lists and other proprietary and confidential information or documents obtained from or developed by WORLD ACCESS inclusive of all copies, duplicates and/or extracts therefrom in their possession or dissipated to third parties in whatever form currently available including computer disks; (c) awarding WORLD ACCESS punitive damages in an amount to be determined at trial; (d) awarding WORLD ACCESS compensatory damages, in addition to statutory attorneys' fees and interest; or in the alternative, reasonable compensation for the unauthorized disclosure and use of these trade secrets in an amount to be determined upon trial; and (e) such other and further relief as this Court may deem just and proper.

COUNT VI.

[Violation of Florida Statutes § 812.081]

87. WORLD ACCESS hereby realleges and incorporates paragraphs 1 through 48 as if fully set forth herein.

88. Defendants, with the intent to deprive or withhold from WORLD ACCESS the control of its trade secrets and with an intent to temporarily or permanently appropriate said trade secrets to its own use or the use of another, stole or embezzled WORLD ACCESS' trade secrets and made or cause to be made copies of such trade secrets without the consent of WORLD ACCESS.

89. Defendants' conduct is wanton, willful and in reckless disregard of the rights of WORLD ACCESS.

CASE NO.: _____

WHEREFORE, pursuant to Florida Statutes § 812.081 and § 812.035, Plaintiff, WORLD ACCESS respectfully requests (a) entry of judgment against Defendants; (b) imposing reasonable restrictions upon Defendants' future activities including, but not limited to, prohibiting Defendants from engaging in the same type of endeavor as the enterprise in which Defendants have engaged with WORLD ACCESS, other than other the guides of a Receiver and/or fifty percent (50%) stock ownership with WORLD ACCESS; (c) ordering the suspension, revocation any license, permit, or prior approval granted to Defendants, or any other company operating or operative by Defendants for the purpose of doing business in its corporate name by any department or agency of the State of Florida except for the same limitations as outlined above; (d) entering an Order preliminarily and permanently enjoining Defendants as requested in earlier Counts; (e) awarding WORLD ACCESS punitive damages; and (f) such other and further relief as this Court deems just and proper.

COUNT VII.

[Violation of Florida Statutes § 812.014]

90. WORLD ACCESS hereby realleges and incorporates paragraphs 1 through 48 as if fully set forth herein.

91. Defendants have knowingly obtained and/or used or endeavored to obtain or use WORLD ACCESS' customer's lists, pricing lists and other trade secrets and proprietary and confidential information with the intent to temporarily or permanently deprive WORLD ACCESS of its proprietary and confidential information and trade secrets and rights and its customer's lists and appropriate the property to its own use.

92. Violation of Florida Statutes § 812.014 is a predicate wrong which provides for a cause of action for civil remedies for theft under Florida Statutes § 812.035 and 772.115.

93. WORLD ACCESS has been damaged.

WHEREFORE, Plaintiff, WORLD ACCESS requests entry of judgment against Defendants for the entry of an Order preliminarily and permanently enjoining Defendants from possession of

CASE NO.: _____

WORLD ACCESS' trade secrets, proprietary and confidential information as alleged; and (b) for treble the actual damages to be determined at trial, attorneys' fees, interest and costs pursuant to Florida Statutes § 772.115.

COUNT VIII.

[Tortious Interference With the Business Relationship]

94. WORLD ACCESS hereby realleges and incorporates paragraphs 1 through 48 as if fully set forth herein.

95. Defendants have tortiously interfere with the business relationship between WORLD ACCESS and other entities.

96. WORLD ACCESS has an advantageous business relationship with its customers. By virtue of the acts described above, Defendants have utilized customers' phone numbers to make illegal phone call, thus causing confusion and other related problems for the customers of WORLD ACCESS. These acts also create a problem to the relationship between WORLD ACCESS and its customers.

97. In addition, Defendants have contacted providers such as AT&T with defamatory and untrue statements regarding the business practices of WORLD ACCESS, accusing WORLD ACCESS of fraud and other related improper and untrue statements.

98. As a result of having access to WORLD ACCESS' information, and then subsequently stealing such information, Defendants have prior knowledge of the existence of these advantageous relationships.

99. Defendants, with knowledge, willfully and maliciously have endeavor to interfere with numerous of these business relationships some of which are outlined above.

100. As a result of these actions, WORLD ACCESS has suffered damages.

101. In addition thereto, there are other business relationships Defendants have interfere with.

CASE NO.: _____

COUNT IX.

[Breach of Contract]

102. Plaintiff hereby realleges and incorporates paragraphs 1 through 16 as if fully set forth herein.

103. Defendants and WORLD ACCESS entered into an agreement whereby COELLO was to issue fifty percent (50%) of TELECUBA's and CELLULAR ACCESS' shares in the name of WORLD ACCESS.

104. Despite demand, COELLO has failed and refused to issue the stock notwithstanding the fact that WORLD ACCESS has given COELLO and the other Defendants valuable consideration for the stock.

Further, COELLO and the remaining Defendants breached its agreements with WORLD ACCESS by, *inter alia*: (1) wrongfully operating and maintaining a competing business against WORLD ACCESS; (2) refusing and failing to pay Plaintiff for invoices with respect to the networking services provided to Defendants; and (3) wrongfully utilizing corporate trade secrets which belonged to WORLD ACCESS to its detriment.

105. As a direct and proximate result of Defendants breach, WORLD ACCESS has suffered damages.

WHEREFORE, Plaintiff, WORLD ACCESS demands judgment against Defendant, Defendants, for damages, together with attorney's fees and costs.

COUNT X.

[Unjust Enrichment]

106. Plaintiff hereby realleges and incorporates paragraphs 1 through 48 as if fully set forth herein.

107. Pursuant to the parties business agreement: as set forth above, Defendants received, among other things, free network access, a 1-800 number and capital contributions (loans) from WORLD ACCESS to help to expand Defendants business for which WORLD ACCESS was to receive

CASE NO.: _____

compensation by the issuance and delivery of corporate stocks, payment for use of its network system, repayment of the loans and expected profits.

108. Defendants have failed and refused to compensate or otherwise pay WORLD ACCESS.

109. Defendants would be unjustly enriched at the expense of WORLD ACCESS, if Defendants are not required to compensate or pay WORLD ACCESS for the services and capital contributions it provided as more particularly described herein.

WHEREFORE, Plaintiff, WORLD ACCESS, demands judgment against Defendant, Defendants, together with attorney's fees and costs.

COUNT XI.

[Breach of Fiduciary Duty]

110. Plaintiff hereby realleges and incorporates paragraphs 1 through 48 as if fully set forth herein.

111. The parties entered into an agreement whereby COELLO, among other things, was to transfer fifty percent (50%) of the stock of TELECUBA and CELLULAR ACCESS to WORLD ACCESS and that COELLO would market the debit cards for the Plaintiff in accordance with the parties' agreement. Additionally, WORLD ACCESS provided Defendants with capital contributions and other considerations based on the Defendants assurances and representations that such agreements would be honored.

WORLD ACCESS placed its trust and confidence in COELLO Defendants not to violate its obligations to Plaintiff, which trust and confidence was accepted by Defendants for which the Defendants continued to use of Plaintiff's communications network.

112. These fiduciary obligations were also undertaken by the other Defendants.

113. Defendants breached their fiduciary duty to WORLD ACCESS by failing and refusing to abide by the terms of their agreements with WORLD ACCESS and wrongfully using their business relationship with WORLD ACCESS to obtain the customer list, pricing list and other confidential information and trade secrets of WORLD ACCESS.

CASE NO.: _____

114. As a direct and proximate result of Defendants breach of fiduciary duties, WORLD ACCESS has suffered damages.

WHEREFORE, Plaintiff, WORLD ACCESS demands judgment against Defendants for damages, including attorneys fees and costs and other equitable relief this Court deems just and proper.

COUNT XII.

[Quantum Meruit]

115. Plaintiff hereby realleges and incorporates paragraphs 1 through 48 as if fully set forth herein.

116. Pursuant to the parties' business agreements between them, WORLD ACCESS has expended time, effort and monies and further used its best efforts in performing the services required under the agreements with the Defendants..

117. Defendants by accepting and enjoying the benefits of the services performed by WORLD ACCESS, owes WORLD ACCESS the reasonable value of those services rendered.

118. As a direct and proximate result of Defendant's failure to pay for the reasonable value of the services rendered, which includes among other things the use of the 1-800 number and the networking system, WORLD ACCESS has suffered damages.

WHEREFORE, Plaintiff, WORLD ACCESS demands judgment against Defendants for damages, including attorneys' fees and costs.

COUNT XIII.

[Conversion]

119. Plaintiff hereby realleges and incorporates paragraphs 1 through 48 as if fully set forth herein.

120. Defendants wrongfully obtained the customer list, pricing list, and other confidential information of WORLD ACCESS, which constitutes the trade secrets of WORLD ACCESS, with the intent to permanently deprive WORLD ACCESS of its immediate possessory rights, title and interest in said trade secrets.

CASE NO.: _____

121. Defendant's conduct is wanton, willful and in reckless disregard of the rights of WORLD ACCESS.

122. As a direct and proximate result of Defendant's conduct, WORLD ACCESS has suffered damages.

WHEREFORE, Plaintiff, WORLD ACCESS demands judgment against Defendant for damages, punitive damages, including attorneys' fees and costs.

COUNT XIV.

[PROMISSORY ESTOPPEL]

123. Plaintiff hereby realleges and incorporates paragraphs 1 through 48 as if fully set forth herein.

124. Defendants made promises to WORLD ACCESS of a substantial and definite nature which included, as more particularly described above.

125. At the time such promises were made, Defendants knew and intended to induce WORLD ACCESS into providing its networking services and making certain capital contributions to Defendants to expand and help its business grow.

126. WORLD ACCESS did, in fact, reasonably rely on these promises and was induced into entering into such agreements with the Defendants when it provided the services and capital contributions to Defendants' to its detriment.

127. Defendants broke its promises to Plaintiff by failing to deliver the stock to Plaintiff and/or to pay for the networking services provided to TELECUBA and CELLULAR ACCESS. Further, Defendants broke its promises to Plaintiff by wrongfully obtaining and using its trade secrets in direct competition with the Plaintiff.

128. As a direct and proximate result of the Defendants broken promises and assurances WORLD ACCESS has suffered damages.

WHEREFORE, Plaintiff, WORLD ACCESS demands judgment against Defendant for damages, punitive damages, including attorneys' fees and costs.

CASE NO.: _____

DEMAND FOR JURY TRIAL

129. Plaintiff demands a trial by jury of all issues so triable as a matter of right.

Respectfully submitted this 12th day of January, 1996.

SCHANTZ, SCHATZMAN, AARONSON & CAHAN, P.A.
Attorneys for Plaintiff, **WORLD ACCESS**
Suite 1050, First Union Financial Center
200 South Biscayne Boulevard
Miami, FL 33131-2394
(305) 371-3100

By: _____

Barry A. Dagen
ALAN P. DAGEN, ESQ.
Florida Bar No.: 0456535



September 26, 1995

Mr. Luis Coello
TeleCuba, Inc.
28 W. Flagler St.
Suite 700
Miami, Fl. 33130

Re.: Letter of Intent

Dear Luis:

This is to confirm our agreement to acquire fifty (50) percent ownership of TeleCuba, Inc. stock by my company, World Access Communications Corporation.

World Access Communications Corp. agrees to:

- Wipe out all debt that TeleCuba has incurred in long distance charges up through Aug. 31st.
- Pay Mr. Coello \$20,000.00 to be paid in five (5) installments of \$4,000.00

TeleCuba, Inc. agrees to:

- Sign over 50% stock ownership of TeleCuba, Inc. in the name of World Access Communications Corp.

Sincerely,


Carlos A. Rodriguez
Vice President

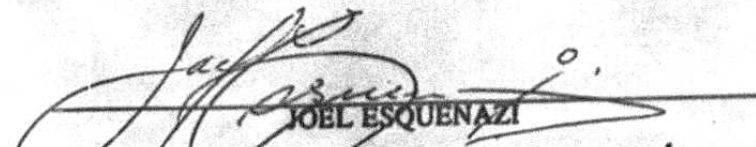
Exhibit "A"

CASE NO.: _____

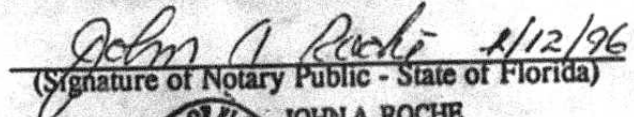
VERIFICATION

STATE OF FLORIDA)
):ss
COUNTY OF DADE)

I, JOEL ESQUENAZI, the President of WORLD ACCESS COMMUNICATIONS CORPORATION, as Plaintiff in the above-styled action. I Have read the foregoing Complaint and know the contents thereof. The same is true of my own personal knowledge, except as to those matters which are therein alleged on information and belief, and as to those matters, I believe them to be true.


JOEL ESQUENAZI

The foregoing instrument was acknowledged before me this 12 day of January, 1996, by JOEL ESQUENAZI, the President of WORLD ACCESS COMMUNICATIONS CORPORATION.

 1/12/96
(Signature of Notary Public - State of Florida)



JOHN A. ROCHE
My Comm Exp. 6/13/99
Bonded By Service Ins
No. VCC471684

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known OR Produced Identification _____
Type of Identification Produced _____

G:\ESQUENAZI\TELECUBA\COMPLAIN